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HUMAN RIGHTS COMMITTEE

Forty-second session

SUMMARY RECORD OF THE 1074th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 15 July 1991, at 3 p.m.

Chairman: Mr. DIMITRIJEVIC

later: Mr. POCAR

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Second periodic report of Madagascar (CCPR/C/28/Add.13) (continued)

1. The CHAIRMAN invited the delegation of Madagascar to continue its replies to the list of issues to be taken up in connection with its Government's second periodic report, beginning with section III.

III. Non-discrimination and equality of the sexes (articles 2 (1), 3 and 26)

(a) Please comment on remaining areas of de facto discrimination on the basis of sex and on specific measures being taken to overcome them (see para. 93 of the report).

(b) In which respect are the rights of aliens restricted as compared with those of citizens? Please comment, in particular, on the main legislative limitations or prohibitions affecting aliens (see para. 79 (a) of the report).

(c) Are there any plans systematically to remove from laws and regulations such outdated provisions as article 4 of the Code of Commerce that seem not to be in line with the Covenant? (See para. 93 of the report).

2. Mr. RADAODY-RAKOTONDRAVAO (Madagascar) said that during the past 12 years the Government had made every effort to eliminate discrimination between the sexes both de jure and de facto. Women played a full part in economic, social and political activities and occupied an important place in the life of the nation. There were, however, some areas such as employment in which de facto discrimination still occurred.

3. Aliens enjoyed full freedom in Madagascar, including freedom to settle. Their voting rights were of course limited and they were subject to administrative regulations in some economic areas, for example the purchase of real estate. Aliens were subject to normal administrative permits and authorizations under article 34 of the Code of Commerce, although that article was shortly to be repealed.

4. Mr. MYULLERSON remarked that much had undoubtedly been done to eliminate inequality between men and women, but even so traces still remained. It was stated in paragraph 94 of the report, for example, that a woman was entitled to administer the household in the event of her husband's death, but nothing was said about co-administration during his lifetime.

5. Mr. SADI said that, although the laws passed against sex discrimination were to be welcomed, he wondered what recourse was in fact open to women to rectify discrimination where it occurred.

6. Paragraph 223 of the report stated that women could marry as from the age of 14, provided that they had permission from at least one of their parents. Was that not a little young for a girl to marry, especially since men were not allowed to marry until they reached the age of 17?

7. Miss CHANET asked what special limitations might apply to the performance of the duties of a judge or magistrate which might stand in the way of a woman being recruited for those duties.

8. Mr. RADAODY-RAKOTONDRAVAO (Madagascar) said that areas of discrimination, left over from earlier regimes, still existed. The marriageable age of women, which was based on the Family Code, was a case in point. The inheritance rights of a woman (one third of the property) and those of a man (two thirds) also differed, but efforts were being made to iron out those anomalies. Another problem was the continuing practice of polygamy and, in some remote (mainly fishing) villages, of contractual marriages (i.e. marriages for an agreed period). The Family Code did not accept the practice of polygamy but the people did.

9. In reply to Miss Chanet's question, he said that there were no restrictions on the recruitment of women magistrates and in fact there were more female than male magistrates. The problem was that women magistrates were mostly married women, who naturally wanted to accompany their husband if he was given a new posting. That tended to destabilize the system and created difficulties for the Ministry of Justice. The "family factor" affected many other fields of employment also.

10. Mr. NDIAYE said that he remembered learning about the last Queen of Madagascar and wondered whether that could be regarded as an earnest of sexual equality in the country.

11. Mr. RADAODY-RAKOTONDRAVAO (Madagascar) said that sexual equality was one of the legendary characteristics of matriarchal societies, but it did not necessarily exist at all levels. At the present time quite a number of women held high posts in the administration, but the situation was different lower down, both in urban and rural areas.

12. Mr. ANDO said that the security situation in Madagascar appeared to be far from satisfactory; there were frequent emergencies and even threats of civil war. Had any progress been made towards stabilizing the security situation?

13. Mr. MYULLERSON asked whether the National People's Assembly had any part to play in the emergency legislation and what procedures had been adopted for implementing the emergency legislation.

14. Mr. RADAODY-RAKOTONDRAVAO (Madagascar) said that security had always been an important issue in Madagascar, although there had been an improvement since independence. The main reason for the unstable state of the country was the theft of cattle, an endemic activity which was almost impossible to stop in view of the high prices which cattle thieves were able to obtain for their booty. Originally an inter-village matter, the theft of cattle was now

practised on a large-scale basis. Animal husbandry was one of the main economic activities in Madagascar and there were two to three times more head of cattle than human beings on the island. To add to the problem, the price of meat had risen as a result of urbanization, and widespread poverty had increased the numbers of recruits to the gangs of cattle thieves.

15. No fully successful means of dealing with cattle thieves had yet been devised. The Malagasy police forces were woefully deficient and the Government had always been hesitant in calling out the army for that purpose. The organization of self-defence groups had not been very successful and had on occasion led to the settling of old scores. The underlying problem was, as so often, the lack of money. The absence of adequate financial resources was very apparent in the budget for law and order and indeed there were many anomalies in other sectors, such as one general hospital in the capital receiving an allocation of funds almost equivalent to the remainder of the health budget. Another serious implication of the lack of financial resources was that the prison-building programme had had to be suspended and food supplies in prisons were so inadequate that families brought food to the prisons from neighbouring villages, to feed their incarcerated relatives. In any case, it would be an unpopular policy to ask the population to make sacrifices in order to improve the living conditions of prison inmates.

IV. Right to life (article 6)

(a) According to the report, between 1977 and 1987, 51 death sentences have been pronounced. How many of them have been carried out? (See paras. 114 and 115 of the report).

(b) Have the authorities been successful in putting a stop to extrajudicial executions of criminals in the rural areas? (See para. 116 (a) of the report).

(c) Please provide information on measures taken and results achieved in reducing the rate of infant mortality and protecting maternal and child health.

16. Mr. WENNERGREN said he had heard reports to the effect that the national police, the gendarmerie and the army had undertaken operations in April 1988 in certain rural areas where they had rounded up suspected persons and summarily executed them either in public or secretly in the countryside. If those reports were accurate, he would like to know whether an investigation had been made to determine who bore responsibility for those actions.

17. Mr. RADAODY-RAKOTONDRAVAO (Madagascar) said that the army had been called upon by the civil authorities to participate in those operations. The army had helicopters and other equipment which it had made available to the civil authorities. It had worked together with the gendarmerie, which had almost the same equipment as the army. It should be noted that the army was sometimes requested to help the gendarmerie and the civil authorities in what were called joint operations.

18. With regard to the events of 1988, as far as he was aware, there had been no summary executions. According to information available to him, pitched battles had taken place between cattle thieves and a force consisting of the police, the gendarmerie and a peasant militia.

19. Since 1975, about a dozen officers had been killed in such operations and that was one of the reasons why the army had never been in favour of participating directly in those activities. It could be called upon for support but the Government always tried to avoid its direct involvement in such action.

20. The villagers were frequently armed with modern weapons. In 1981, the army had been called upon to separate groups from two rival villages who had been fighting each other, resulting in the death of more than 100 persons.

21. With regard to the question concerning the death penalty, he said that since 1956, when Madagascar had become independent, no death sentence had been carried out. It was true that 51 death sentences had been pronounced, but no administration had rejected any petition for reprieve.

22. There was a continuing debate in Madagascar about whether the death penalty should be abolished. Some said that it had a deterrent effect. Others noted that the people often took justice into their own hands and carried out summary executions before the police could arrive. In that connection, it must be noted that his country had a very small police force and would never be able to provide sufficient police coverage.

23. General measures were being taken to reduce the rate of infant mortality and to protect maternal and child health. However, that was an area in which his Government was not making progress because of a lack of resources.

24. Mr. MYULLERSON said he would welcome information concerning the situation of persons who had been sentenced to death.

25. Mrs. HIGGINS thanked the representative of Madagascar for his interesting and frank introduction.

26. With regard to the recent army activities in which deaths had occurred, she regretted the loss of life of army officers and others but thought that an inquiry of some sort should have been conducted to determine what had happened and to see whether excessive use of force had taken place. The essential point was that those responsible should be arrested and brought to trial. She stressed that an end must be put to the situation where local communities took the law into their own hands.

27. Lastly, she regretted that Madagascar was not succeeding in reducing the rate of infant mortality and protecting maternal and child health.

28. Mr. NDIAYE said he would welcome information concerning the rate of infant mortality.

29. Miss CHANET expressed great concern at the extrajudicial executions that were taking place in Madagascar. She recognized the difficulties faced by the

Government as a result of the lack of resources but thought that it must make every effort to fulfil its obligation under the Covenant to put an end to those executions.

30. Mr. RADAODY-RAKOTONDRAVAO (Madagascar) said, with regard to the question raised concerning executions, that pardons had been systematically granted and the death sentence commuted to life imprisonment. No head of State had refused to commute a death sentence.

31. A state of emergency had never been declared by the Government but emergency provisions had been applied in some towns and regions following riots, demonstrations or natural disasters.

32. With regard to the question raised by Mr. Ndiaye concerning infant mortality, he would provide precise data at a later stage.

33. Referring to a point raised by Mrs. Higgins, he said that the State had made every effort to identify persons responsible for the excesses that had taken place in the 1970s and 1980s. Several hundred leaders of decentralized communities who had incurred collective responsibility for such excesses had been brought to trial and given severe prison sentences. There were several cases where the Government had been obliged to imprison an entire village whose inhabitants had acknowledged their responsibility, claiming that they had been attacked and had killed the assailants in self-defence.

V. Treatment of prisoners and other detainees (articles 7 and 10)

(a) Have there been any complaints of torture and/or cruel or inhuman treatment against public officials and, if so, have those guilty of such offences been punished?

(b) To which extent are the United Nations Standard Minimum Rules for the Treatment of Prisoners complied with and are they made known and accessible to prisoners?

(c) What measures are being taken to address the problem of prison overcrowding?

(d) Is consideration being given by Madagascar to acceding to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment?

34. Miss CHANET said that she would welcome more specific information regarding the situation in prisons. For example, she would like to know whether the overcrowding had resulted in the death of prisoners.

35. Mr. RADAODY-RAKOTONDRAVAO (Madagascar) said that the Government had received no complaints of torture and/or cruel or inhuman treatment against public officials.

36. A hierarchical surveillance structure had been established in prisons with regard to prison guards but it must be pointed out that Madagascar faced a serious problem of prison overcrowding. Virtually no prisons had been built since his country's independence, during which time the population had risen from 3 million to the present level of 12 million. An attempt had been made to improve the situation by moving prisoners to the countryside where they could engage in agricultural work. With regard to the disproportionately low number of women prisoners, an effort was always made to the extent possible not to imprison women.

37. His Government had always been in favour of acceding to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and would do so at the appropriate time.

38. Mr. SADI said he would like to know the legal procedures for redress that were available to a person who had been a victim of torture in Madagascar. He asked whether the Government carried out any educational campaigns against torture.

39. Mr. RADAODY-RAKOTONDRAVAO (Madagascar) said, in reply to Mr. Sadi's question, that legal action against torture came within the framework of general legal procedures and there was no specific legislation in that respect. To his knowledge, no specific educational measures were being taken to make the population more aware of such problems, other than those included in the training of penitentiary and other relevant personnel.

40. In response to the question raised by Miss Chanet, he said that the situation at one prison had indeed been very serious; there had been deaths as a result of epidemics and malnutrition, the latter particularly when there had been a shortage of rice for the whole population of the region. However, since that time the Government had taken a series of measures to improve the situation; wherever possible detainees had been granted provisional release, families had been allowed to provide food for detainees in addition to that supplied in the prison, specialist doctors had been appointed to the prison to combat the risk of epidemics, and prisoners had been transferred elsewhere to decrease the prison population.

VI. Liberty and security of the person (articles 9 and 11)

(a) What is the maximum period of pre-trial detention in law and practice?

(b) How quickly after arrest is a person's family informed and how soon after arrest can a person contact a lawyer?

(c) Are there any particular legal actions that can be taken in cases of detention, such as habeas corpus?

(d) In view of the long delays in bringing a person to trial, what measures have been taken to reduce the number of those being held in detention pending trial and increasing the number of persons released on bail? (See para. 135 of the report.)

41. Mr. RADAODY-RAKOTONDRAVAO (Madagascar) said that the maximum length of pre-trial detention in law was six months. However, in practice, it was commonly as much as 18 or 20 months because there were not enough magistrates and because of other material problems. The person's family was informed as rapidly as possible so that family members could bring food to the detainee. Similarly, the person could contact a lawyer immediately; usually the family arranged for legal assistance, but in other cases the administration ensured that the person had the services of a lawyer. There was no special legal remedy in cases of detention, such as habeas corpus, other than the usual common law provisions to prohibit arbitrary arrest and ensure liberty of the person. Lastly, bail was not common in his country but provisional release of detainees was practised systematically in view of the overcrowding in the prisons and the length of pre-trial detention.

42. Mr. WENNERGREN referred to the attempted coup of May 1990. He had heard reports that, although the persons detained had been brought to trial in December 1990, they had not previously had prompt access to their families or to lawyers nor had they had independent medical attention, but had been held incommunicado for a period of three weeks in a military garrison. Moreover, several of them claimed they had been beaten and ill-treated during detention. Despite such reports, however, there had apparently been no investigation. He requested the representative of Madagascar to comment on that information and to state whether any investigatory measures had in fact been taken.

43. Mrs. HIGGINS expressed her appreciation at the Malagasy representative's frank replies concerning the divergence between law and practice in relation to pre-trial detention. None the less, practice was clearly not in conformity with article 9. It seemed that the length of pre-trial detention was considered to be tolerable in view of limitations preventing additional resources from being made available in order to increase the number of judicial officers and because ultimately the detainee's family would keep him supplied with food. While the family should certainly be allowed to supplement a basic minimum diet in a prison, she had the impression that full responsibility for providing food was being made over to families and sometimes to non-governmental organizations.

44. Referring in the context of article 11 to paragraphs 147-150 of the report, concerning the three ordinances sanctioning failure to fulfil a contractual obligation, she asked why the ordinances in question had not simply been repealed.

45. Mr. RADAODY-RAKOTONDRAVAO (Madagascar) said, in reply to Mr. Wennergren, that in May 1990 some 10 armed persons had forced their way into the broadcasting centre and held the personnel there hostage. They had made seditious announcements on the radio and television and had attempted to provoke an armed revolt at a time when a large number of people were present in front of those premises on the occasion of a sporting event. They had opened fire on the police force which had attempted to evict them, following day-long negotiations, and there had been a real risk of a massacre. Emergency measures had been taken following their capture. None the less, to his knowledge the persons concerned had had access to lawyers. It was to be assumed that discretion had been maintained for a certain period in order to

find the persons' accomplices - the latter included persons who had supplied them with arms, persons from outside the country and members of the armed forces. Accomplices had been found some three or four weeks after the event and a trial had taken place. While he could provide no further information on the matter, he would inform his Government of the remarks made within the Committee.

46. He assured Mrs. Higgins that the State did not leave the responsibility of feeding prisoners entirely in the hands of families; it did not, however, forbid families to provide food where they considered prison food to be inadequate or bad. He pointed out that in prison camps, inmates grew their own food, although families could also bring in extra food, as they could in all prisons.

47. On the question of debt, he agreed that it might be simpler to repeal the ordinances in question. He pointed out in that context that there were a large number of legal provisions that were under review and would gradually be repealed or amended as appropriate. It was, significant that the judiciary itself had recognized that the ordinances in question were irrelevant and inconsistent with the Covenant and the Constitution.

48. Mr. ANDO, referring to paragraphs 127 and 128 of the report, in the context of article 8 (3) (c) (iv) of the Covenant, requested further information concerning the nature of non-military national service and its relation with the economic and social development of the country.

49. Mr. RADAODY-RAKOTONDRAVAO (Madagascar) said that the practice dated from the time of literacy campaigns held in the 1970s and 1980s, for which there had been insufficient teachers. The Government had decided to mobilize young men and women with the necessary level of education and to combine literacy work with their military service. By putting such work in the context of national service, it had also been possible to place the resources of the army at the disposal of the campaign. At that time, the young people in question had spent three months undergoing military training and the rest in non-military national service, primarily in primary and secondary education, for which they had received payment in order to cover their needs. Subsequently, the concept of national service had been extended, as many young people had wanted to undertake tasks other than teaching and had been offered the possibility of being appointed to enterprises or administrative departments in order to learn the work and assist there in exchange for a token salary. At the same time, it should be borne in mind in that context that not all young people performed military service, as the means available to the army were limited; only some 10 to 15 per cent - determined by educational, social and geographic criteria - were involved.

50. Mr. Pocar took the Chair.

VII. Right to a fair trial (article 14)

51. Has any progress been achieved since the submission of the report in respect of measures designed to improve the system of justice described in paragraph 173 of the report?

52. Mr. RADAODY-RAKOTONDRAVAO (Madagascar) said that the number of lawyers had risen considerably. Funding for the Ministry of Justice and the judicial administration had also been increased. Moreover, the Supreme Court and the National People's Assembly were undertaking their supervisory tasks in a more rigorous fashion.

53. Mr. ANDO, referring firstly to article 89 of the Constitution, asked for further information on the criteria applicable to the qualifications of the seven members of the Constitutional High Court. He asked why specific requirements for legal qualifications were limited to only four of the seven members and whether the other three members might be political nominees. Secondly, referring to paragraphs 161-163 of the report, he requested further clarification concerning the new system for the review of judicial decisions. Thirdly, concerning paragraph 181 on the age of criminal majority, he imagined that there was specific legislation for juveniles whereby offenders under 18 years of age might be punished; if that was so, it would be useful to know the age of juvenile criminal responsibility.

54. Mr. RADAODY-RAKOTONDRAVAO (Madagascar), replying to the first question put by Mr. Ando concerning the Constitutional High Court, said that article 89 of the Constitution had often been criticized in his country for the powers which it conferred on the President in regard to appointments to that Court. It was, however, implicit in the article that the persons appointed by the President must also have the requisite legal qualifications and in practice that had always been the case, with eminent legal personalities being appointed. Article 89 had become obsolete and replaced by a new provision under which membership of the Constitutional High Court had been modified so as to ensure that presidential appointees did not constitute a majority. In any event, in practice the President had always consulted the People's National Assembly and the Council of Magistrates before making appointments to the Court.

55. Articles 10 and 11 of Ordinance No. 82-019, quoted in full in paragraphs 162 and 163 of the report, had given rise to much controversy in legal circles in Madagascar, and their repeal was not unlikely as part of the far-reaching legal reform process that was under way. The changes, which concerned, inter alia, the Supreme Court and its membership (it would henceforward be composed entirely of duly elected representatives of the magistrature), were expected to guarantee the complete independence of the judiciary.

56. While one or two centres existed for the re-education of juvenile delinquents, the criminal majority was set at 18 years of age.

VIII. Freedom of movement and expulsion of aliens (articles 12 and 13)

(a) What obligations must an alien satisfy, pursuant to article 21 of Ordinance No. 62-041 of 19 September 1962, in choosing his residence?

(b) Is there a possibility of an appeal to the courts against an expulsion order?

57. Mr. RADAODY-RAKOTONDRAVAO (Madagascar) said that aliens enjoyed fre of movement and freedom to reside in Madagascar, provided that they were possession of a valid residence permit, had a clean record and were not subject of an expulsion order. They were obliged to declare their resid to the authorities of the locality in which they settled. They could lo complaints or appeals with the administrative division of the Supreme Co the case of denial of their rights or expulsion. Recent legislation acc a considerable amount of freedom to aliens with regard to business activ an extension of their right to acquire property, and of their guarantees that respect, was also foreseen.

58. Mr. NDIAYE inquired about the procedure applying to aliens appealin against expulsion orders.

59. Mr. RADAODY-RAKOTONDRAVAO (Madagascar) said that such persons appea before an ad hoc commission, which was generally composed of a magistrat together with representatives of the police and of the administrative authorities.

60. Mrs. HIGGINS sought the assurance that with the legal reform proces completed in Madagascar, the bringing of cases to the Human Rights Commi and activism in the field of human rights by aliens would no longer be regarded as legitimate grounds for expulsion.

61. Mr. RADAODY-RAKOTONDRAVAO (Madagascar) said he assumed Mrs. Higgins alluding to a case involving a correspondent of Amnesty International, w been expelled in 1983. Already referred to at the previous meeting, tha case, like the personalities of the individuals concerned, had been complicated; it had occurred at a time of great national difficulties; a was because of his untoward political activities and frequentations, rat than activism of any other kind, that the individual in question had bee expelled, the Government of the time having preferred that somewhat expeditious course of action to detention and investigations. Looking a he could not prejudge the actions of any future Government, but he belie that the Malagasy State, like so many others, would continue to defend itself - albeit occasionally in a controversial manner - against what we deemed to be attempts at destabilization and subversion of the social or

62. The raising of that issue gave him the opportunity to respond furth questions raised at the previous meeting with regard to the fate of cert other persons involved in the same events, who had all had the person al to by Mrs. Higgins as their lawyer. He had drawn the attention of his Government to Madagascar's responsibilities under the Optional Protocol, had obtained confirmation that all concerned had been released. The que of damages was under consideration, and he could only reiterate that at one of the complainants seemed to have scaled down his demands, was curr occupying quite a prominent position in the country's life and appeared happy with his present fate. He knew, of course, that the activist init alluded to continued to lay his concerns before the Human Rights Committ they were duly brought to the attention of the Malagasy Government, whic would certainly respond in due course; nevertheless, it found the petiti tenacity, which had lasted for almost 10 years, somewhat disproportionat

63. Mrs. HIGGINS took note of the partial responses to questions posed at the previous meeting concerning follow-up action in compliance with the Committee's views; she presumed that more detailed and precise replies in writing would be transmitted in due course by the Malagasy authorities to the Special Rapporteur for Follow-Up of Views.

64. Stressing that it was the Committee's views that were at issue, and not the communications of any individual applicant, she said that it had in any case not been her intention to revert to a matter of the past. She would repeat what she considered to be a very simple question: in future, would the bringing of cases to the Human Rights Committee be considered a ground for the expulsion of an alien, or for the punishment of a national?

65. Mr. RADAODY-RAKOTONDRAVAO (Madagascar) said that as part of the revision of the Constitution that was under way, full freedoms, including the right of assembly, the right to demonstrate, the right to strike, the right to engage in political or civic activities, and so on, would be guaranteed under the law. However, matters of assessment and application would naturally be the responsibility of the Government of the day.

IX. Right to privacy (article 17)

Under which circumstances and by whom can telephone tapping or control of the mail be authorized? Have there been any allegations of unlawful interference with privacy in general and, in particular, with home and correspondence during the period covered by the report and, if so, how were such complaints dealt with?

66. Mr. RADAODY-RAKOTONDRAVAO (Madagascar) said that strict respect for privacy and the inviolability of correspondence had been provided for by the 1975 Constitution, and he did not foresee any changes in that connection. Telephone tapping could only be authorized by an examining magistrate in the course of investigations.

67. Recourse was available in the case of interference with privacy.

68. Mr. NDIAYE inquired about the possible improper use of telephone tapping.

69. Mr. RADAODY-RAKOTONDRAVAO (Madagascar) said that, to his knowledge, there had never been any complaints or allegations in that connection.

70. Mrs. HIGGINS, addressing paragraph 184 of the report, and observing she presumed that statistics for the years subsequent to 1983 would be similar to those listed, asked for an explanation of what appeared to be an astonishingly large number of prosecutions and convictions for libel and slander.

71. Mr. MAVROMMATIS endorsed the question by the previous speaker, asked what constituted libel and slander in Magadascar, and what penalties were imposed, and invited comments by the Malagasy representative on the general tendency in countries to decriminalize libel and slander and make it the subject merely of civil actions.

72. Mr. RADAODY-RAKOTONDRAVAO (Madagascar) said that he himself had been surprised by the figures in the report. He could only state that he had been informed a few days earlier that under the new press laws insulting statements concerning the Head of State would no longer be a criminal offence. He would transmit the question to the Malagasy authorities for clarification.

X. Freedom of opinion and expression; prohibition of propaganda for war and of incitement to national, racial or religious hatred (articles 19 and 20)

(a) Please clarify the reference in paragraph 137 to "political prisoners", commenting on the offences and circumstances relating to their imprisonment.

(b) Please provide information on current legal guarantees with respect to freedom of the press and on their implementation.

(c) Please explain how the State monopoly on radio and television affects freedom of expression.

(d) Please clarify how the requirement for the exercise of freedom of expression "in conformity with the objective of the Revolution", as provided by article 28 of the Constitution, has been actually addressed in law and practice. Have there been any adverse consequences for those not observing this limitation?

(e) Please describe what limits are imposed on the enjoyment of freedom of opinion and expression by the need to ensure due respect for the person of the Head of State and State institutions (see para. 201 of the report).

73. Mr. RADAODY-RAKOTONDRAVAO (Madagascar), referring to question (a), observed that the relevant part of paragraph 137 of the report referred merely to the special status of political prisoners. Since, as he had already stated, there were currently no such prisoners in Madagascar, the question was beside the point.

74. Concerning question (b), he said that during the years since the ending of the state of emergency, a series of measures had progressively restored the freedom of the press. Notable steps had been the abolition of the provisions regarding statutory deposit of publications (dépôt légal) and the abolition of all forms of press censorship on the eve of the presidential election campaign in 1989. It now seemed generally agreed that the Malagasy press was both lively and free.

75. Concerning question (c), he said that the State monopoly on radio and television was currently under thorough review. A private company comprising various partners was being set up to produce programmes independently of the State, although the basic infrastructures remained the property of the telecommunications administration. The principal concern was to make radio and television a profitable operation, independent of all political interests, through various privatization measures. Many private radio stations were already functioning, and broad access to television by satellite had

eliminated the last vestiges of a State monopoly. He remarked in passing that the population spent far more time watching foreign television programmes than national ones, and that opinions differed widely concerning the desirability or otherwise of that state of affairs.

76. Concerning question (d), he said that article 28 of the 1975 Constitution was no longer in force, and he repeated that all press censorship had been abolished.

77. Concerning question (e), he remarked that the Head of State could, like any other citizen, bring an action for defamation.

78. Mr. WENNERGREN asked whether, notwithstanding the abolition of censorship, there had been any seizures or confiscations of books, newspapers or other publications.

79. Mr. RADAODY-RAKOTONDRAVAO (Madagascar) said that there had in the past been strict control over printed matter imported from abroad. Certain publications had indeed been seized, although Jeune Afrique had - as he recalled - been the only major periodical to suffer that fate. Obscene and pornographic material had systematically been confiscated. The situation had now changed radically. Total freedom had brought with it a proliferation of pornographic video-clubs, bookshops and the like which was giving rise to concern. Among other measures, the authorities were examining the copyright situation with the World Intellectual Property Organization (WIPO). For his part, he believed that with the removal of the obligation of statutory deposit, the pendulum had swung a little too far in the opposite direction.

The meeting rose at 6 p.m.